C.J.'s Court

Writ Petition No. 91 of 2002 (M/B)

Girish Chandra Bhatt …….. Petitioner

Versus

Regional Secretary, Madhyamik Siksha Parishad,Regional Office Ramnagar and others ……. Respondents

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Hon. A. A. Desai, C.J.
Hon. Irshad Hussain, J.

Sri Rakesh Thapaliyal, learned counsel for the petitioner and Sri B.D. Kandpal, learned Standing Counsel appeared.

This is a petition by a private student who appeared for the High School Examination. The student has filled-in two separate forms for two different Examination Centres. This was in breach of the undertaking furnished in the form. As a result, his admission to the examination was cancelled. The petitioner thereupon filed the instant petition.

By the interim order, we permitted the petitioner to appear in the examination. Accordingly, the petitioner appeared for all the papers. Now we took up the matter for final hearing.

Learned Standing Counsel has argued with force that the filling of two forms for two different centres was a device to play a mischief and, therefore, was strictly prohibited. Even by filling-in two forms, the petitioner has committed the breach of undertaking for which the action was taken against him. In view of this, the learned Standing Counsel urged that no latitude in any manner could be shown against the petitioner.

Heard Sri Rakesh Thapaliyal, learned counsel appearing for the petitioner and learned S.C.

We have adverted to the question in great detail. The condition as imposed is to bring discipline in the academic field. If such practice is allowed, it may promote unfair practices. However, it could not be pointed out or otherwise that the petitioner, who appeared pursuant to our interim order, has adopted any unfair means in the examination. Moreover, the learned counsel for the petitioner submitted that the act of the petitioner was merely a mistake which he did as per advice of his father and he has not taken any undue advantage. However, for committing the breach of undertaking he offers for any penalty to be imposed.

Having regard to the submissions, we have noted that the petitioner has already lost one academic year. The learned Standing Counsel further suggested and with which we agree, that the petitioner shall not appear in any further examination if he succeeds in the High School Examinations till end of the academic session 2004. In the result, we direct that the result of the petitioner be declared and he shall not appear in any further examination till the end of the academic session 2004. However, we make a mention that this order will not follow as a precedent in any other similar case.

With this the petition is disposed of.

(A. A. Desai, C. J.) **(Irshad Hussain, J.)**

Dt. 16.11.2002
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